

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

**JAVIER LUIS,
Plaintiff,**

Civil Action No. 1:12-cv-00629

vs.

**Dlott, J.
Bowman, M.J.**

**JOSEPH ZANG, et al.,
Defendants.**

NOTICE OF APPEAL

Notice is hereby given that Javier Luis, Plaintiff in the above named case, appeals to the United States Court of Appeals for the Sixth Circuit from the District Court's Order [Doc.# 235] (attached) adopting the Magistrate's Report and Recommendation [Doc. #225] granting summary judgment for the Defendant that was entered into this action on June 8, 2018.

Potential issues being appealed may include but are not limited to some or all of the following:¹

1) Whether, pursuant to the Federal Wiretap Act ("Wiretap Act"), 18 U.S.C. §§ 2510-2520, the District Court erred when it found that the definition of intercept encompasses only acquisitions contemporaneous with the transmission of the corresponding communication.

¹ Using an excess of caution - as Plaintiff remains uncertain whether this Circuit requires a statement of issues with this notice as some circuits seem to require- the following above list of primary issues on appeal has been included herein. This list is subject to change - particularly if assigned counsel for this appeal or if pro bono counsel signs onto the case. Other miscellaneous issues may include but are not limited to the following: Judicial error, case-wide abuse of discretion, misapplication of substantive law to the facts of the case, improper interpretation of ruling authority, improper case law used to defeat this case, denial of constitutionally provided due process of law, obvious error, judicial error caused by a flawed interpretation of Congressional intent in the writing of the Wiretap Act.

- 2) Whether the contemporaneous standard of intercept defeats the purpose of the Wiretap Act/is unconstitutional when applied to electronic communications.
- 3) Whether the contemporaneous standard of intercept is unconstitutional when applied to electronic communications.
- 4) Whether, as interpreted by the District Court, the contemporaneous standard of intercept is unconstitutional.
- 5) Whether the contemporaneous standard contradicts congressional intention and landmark Supreme Court rulings when applied to electronic communications.
- 6) Whether the District Court erred when it interpreted this Appeals Court's recent acceptance of the contemporaneous standard of intercept in an overly narrow manner.
- 7) Whether intercepts of electronic communications within mere fractions of a second from the time they are received should be considered as triggering the Wiretap Act.

Dated: July 7, 2018

Respectfully Submitted,

/s/ Javier Luis
JDLuis65Ohio@gmail.com

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Notice was filed electronically on July 7, 2018. Parties may access this document through that system.

/s/ Javier Luis